

DLD-134

February 22, 2008

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **07-4350**

MIKHAIL MAZIN

vs.

MR. STEINBERG, ET AL.

(D. DEL. CIV. NO. 07-CV-00081)

Present: BARRY, CHAGARES AND GREENBERG, CIRCUIT JUDGES.

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect; and
- (2) Appellant's jurisdictional response

in the above-captioned case.

Respectfully,

Clerk

MMW/LLB/tmm

_____ORDER_____

The foregoing appeal is dismissed for lack of appellate jurisdiction as untimely filed. Federal Rule of Appellate Procedure 4(a)(1)(A) provides that a notice of appeal be filed within 30 days after entry of judgment. However, the District Court's April 19, 2007 memorandum order does not satisfy the Rule 58, Fed. R. Civ. Pro., "separate document" requirement for a judgment, because it contains an extended discussion of the facts and procedural history. See In re Cendant Corp. Sec. Litig., 454 F.3d 235, 238 (3d Cir. 2006). Because the District Court did not comply with the separate document requirement of Rule 58, the window for filing a timely notice of appeal was 150 days from entry on the civil docket (entry occurred on April 24, 2007), Fed.

R. Civ. Pro. 58(c)(2)(B), or September 21, 2007. See also Fed. R. App. Pro. 4(a)(7)(A)(ii). The notice of appeal was not filed until November 9, 2007, and thus was late. The time periods prescribed for filing a notice of appeal are “mandatory and jurisdictional.” Browder v. Director of Dep’t of Corrections, 434 U.S. 257, 264 (1978). No motion for an extension of time to appeal, Fed. R. App. Pro. 4(a)(5), (6), was filed in the district court.

By the Court,

/s/ Maryanne Trump Barry
Circuit Judge

Dated: March 18, 2008

tmm/cc: Mr. Mikhail Mazin